# IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF IOWA CENTRAL DIVISION

INNOVATIVE LIGHTING, INC.,	)	
Plaintiff,	)	
vs.	)	
AQUA SIGNAL CORP.,	)	Civil No. 4-02-cv-10064
Defendant.	)	
AQUA SIGNAL CORP.	)	ORDER
Counter-Plaintiff and Third Party Plaintiff,	)	ORDER
vs.	)	
INNOVATIVE LIGHTING, INC.,	)	
Counter-Defendant,	)	
and	)	
RON WIGGERMAN,	)	
Third Party Defendant.	)	

Ron Wiggerman ("Wiggerman") filed a motion to dismiss on June 14, 2002. On August 29, 2002, Aqua Signal Corporation ("ASC") filed a response. Wiggerman replied on September 13, 2002. The motion is now fully submitted.

#### I. Background.

The following facts either are not in dispute or are viewed in a light most favorable to the non-movant, ASC. *See Bell v. Fischer*, 887 F. Supp. 1269, 1275 (N.D. Iowa 1995) (In disposing of a motion to dismiss for lack of personal jurisdiction, "[i]f the court does not hold a hearing and instead relies on pleadings and affidavits, the court must look at the facts in the light most favorable to the non-moving party and resolve all factual conflicts in favor of that party.").

## Dispute Between Wiggerman and ASC

ASC, an Illinois corporation with its principal place of business in Cary, Illinois, manufactures and sells marine industry products. Wiggerman is a former employee, officer, and consultant of ASC. From February 28, 1996 to December 31, 2000, Wiggerman served as Vice President and worked in ASC's research and development department. Wiggerman continued with ASC as a research and development consultant from January 1, 2001 to March 18, 2001. He helped develop a number of products, including: the dual function remote, the LED battery light, the dual frequency Piezo hidden horn, and the docking light with stainless steel cover ("Product Innovations").

On March 5, 2001, while still a consultant for ASC, Wiggerman entered into a Consulting Services Agreement with Innovative Lighting, Incorporated ("ILI"), a closely-held Iowa corporation with its principal place of business in Roland, Iowa. Wiggerman contracted to "assist [ILI] with product development, product design, product marketing research, new product ideas, product manufacturing and/or assembly placement in the far east . . . ." Wiggerman Deposition Exhibit at 3. In return for his services, ILI agreed to pay Wiggerman \$750 per week and reimburse him for travel expenses.

Shortly after retaining Wiggerman, ILI introduced products that were nearly identical to the Product Innovations Wiggerman had previously developed for ASC. On October 12, 2001, ASC's counsel sent a letter to Jerrold L. Handsaker ("Handsaker"), President of ILI, objecting to ILI's misappropriation of ASC product designs. In a December 3, 2001 letter, ILI assured ASC that it would not sell or market the products, provided the two parties were involved in good faith discussions. Nevertheless, Wiggerman, acting on ILI's behalf, marketed the products at a trade show in Fort Lauderdale, Florida in February 2002.

ILI filed an action against ASC in this Court on February 1, 2002, seeking a declaration that (1) ILI did not misappropriate ASC's Product Innovations, (2) ASC is estopped from making any claims against ILI, and (3) ILI did not cause any former ASC employee to breach fiduciary duties owed to ASC. ILI also sought damages, claiming that ASC interfered with a prospective business relationship, engaged in unfair competition, and misappropriated trade secrets. On April 5, 2002, ASC filed a counterclaim against ILI. It alleged that ILI violated the Illinois Uniform Trade Secrets Act, induced Wiggerman to breach his fiduciary duties to ASC, and was unjustly enriched. In addition, ASC filed a Third Party Complaint against Wiggerman for breach of fiduciary duty, unjust enrichment, and conversion.

#### • Wiggerman's Contacts with Iowa

Wiggerman traveled to Iowa on three occasions. His first trip was for two days in January 2001, while he was still a consultant for ASC. Wiggerman spent several hours in meetings with ILI board members and the President of ILI, Jerrold Handsaker, during which they discussed Wiggerman's potential consulting relationship with ILI. Wiggerman's second trip to Iowa took place in May 2001,

after he had become a consultant for ILI. He spent the bulk of this two-day trip in business meetings with Handsaker and other ILI employees, including ILI engineers. In these meetings, Wiggerman discussed all of his product developments for ILI, and he negotiated and entered into the May 23, 2001 Stock Exchange Agreement. Pursuant to this contract, Wiggerman agreed to provide development, tooling, and manufacturing information to ILI for the same products that ASC claims were misappropriated by Wiggerman and ILI. In exchange for his services, ILI gave Wiggerman company stock. Wiggerman's third trip to Iowa was unrelated to his business with ILI. He ventured to Ames to visit his son for two days in July 2002.

In addition to his visits to Iowa, Wiggerman frequently corresponded with ILI. From March 2001 to May 2002, he faxed over 90 items from his home in Mesa, Arizona to ILI in Roland, Iowa; he shipped numerous progressions of prototypes and other materials for each product under development to ILI; he made more than 100 telephone calls to ILI; and he mailed twenty-three separate expense reports to ILI. ILI sent twenty separate payments from its office in Iowa to Wiggerman's residence in Arizona from January to June 2002.

#### II. APPLICABLE LAW AND DISCUSSION

The determination of whether or not a court has personal jurisdiction over a non-resident defendant involves a "two-step analysis." *Northrop King Co. v. Compania Productora Semillas Algodoneras Selectas, S.A.*, 51 F.3d 1383, 1386-87 (8<sup>th</sup> Cir.1995). "First, the applicable state long-

<sup>&</sup>lt;sup>1</sup> As of October 15, 2001, Wiggerman owned at least 20,000 shares of ILI stock.

arm statue or rule must be satisfied, and second, the court's exercise of jurisdiction must be consistent with the due process clause of the Fourteenth Amendment." *Bell v. Fischer*, 887 F. Supp. 1269, 1276 (N.D. Iowa 1995). Iowa's long-arm statute confers jurisdiction to the fullest extent permitted by the due process clause. *Id.* at 1277. Thus, "the personal jurisdiction inquiry here collapses into the single question of whether exercise of personal jurisdiction comports with due process." *Id.* 

The Court may exercise personal jurisdiction over a nonresident defendant without violating the due process clause where the defendant has sufficient minimum contacts with the forum state. *World Wide Volkswagen Corp. V. Woodson*, 444 U.S. 286, 291 (1980). The Eighth Circuit discussed the personal jurisdiction due process requirements in *Dakota Indus., Inc. v. Dakota Sportswear, Inc.*, 946 F.2d 1384, 1389 (8<sup>th</sup> Cir. 1991). It stated:

[d]ue process requires that out-of-state defendants have fair warning that they could be haled into court in a foreign jurisdiction. This requirement is satisfied if the defendant has purposefully directed his activities at residents of the forum . . . and the litigation results from alleged injuries that arise out of or relate to those activities.

Id. (internal quotations omitted). "In assessing the defendant's 'reasonable anticipation' of being haled into court, 'there must be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws." Bell, 887 F. Supp. 1269 at 1278 (quoting Bell Paper Box, Inc. v. U.S. Kids, Inc., 22 F.3d 816, 818 (8<sup>th</sup> Cir. 1994). "Once the court has found that the defendant purposefully established the requisite minimum contacts with the forum state, the court still must determine whether the assertion of jurisdiction comports with fair play and substantial justice." Dakota Indus., 946 F. 2d at 1389. (internal citations omitted).

The Eighth Circuit has set forth a five factor personal jurisdiction test. The Court must consider:

(1) the nature and quality of the contacts with the forum state; (2) the quantity of the contacts with the forum state; (3) the relation of the cause of action to the contacts; (4) the interest of the forum state in providing a forum for its residents; and (5) the convenience of the parties.

*Bell*, 887 F. Supp. at 1279 (citing *Northrup King Co.*, 51 F.3d at 1388.) The first three factors are the most important in the analysis. *Id.* 

The record shows that Wiggerman entered into an ongoing business relationship with ILI that required regular communications between Wiggerman in Arizona and ILI in Iowa. From March 2001, to May 2002, he faxed over 90 items to ILI in Iowa, telephoned ILI more than 100 times, mailed over twenty expense reports to ILI, and sent prototypes of his product developments to ILI. *See Northrup King*, 51 F.3d 1388 ("Mail and telephone communications sent by the defendant into the forum nay count toward the minimum contacts that support jurisdiction.") (quoting *Grand Entertainment Group v. Star Media Sales*, 988 F.2d 476, 482 (3<sup>rd</sup> Cir. 1993). In addition to his frequent correspondence with ILI in Iowa, Wiggerman traveled to Iowa twice to discuss his deal with ILI. Not only did he attend several meetings with ILI's Board of Directors, President, and engineers, but during his second visit, Wiggerman entered into a Stock Exchange Agreement with ILI–a consulting agreement that is at the heart of this lawsuit. The Court finds that when viewed in the aggregate, these contacts "were numerous and significant and extended over a substantial time." *Northrup King*, 51 F.3d 1388. Thus, the quality, quantity, and nature of the contacts weigh in favor of finding personal jurisdiction.

The next primary factor, the relation of the cause of action with the forum state, heavily favors this Court's exercise of personal jurisdiction. The Court finds that there is a strong nexus between

Wiggerman's contacts with Iowa and the claims ASC filed against him. Excluding the trip he made in July 2001 to visit his son, Wiggerman's contacts with Iowa are directly related to the product innovations ASC claims he misappropriated. Under similar circumstances, the Eighth Circuit has held that the minimum contacts test was satisfied. See Northrup King, 51 F.3d at 1388-89 (finding that defendant's presence in the forum state and the letters he sent there were an "essential part" of the course of dealing between the companies, which was a matter within the subject matter of the litigated claims); and Wessels, Arnold, & Henderson, v. Nat'l Med. Waste, Inc., 65 F.3d 1427, 1434 (8th Cir. 1995) ("The numerous mail and telephone contacts coupled with the physical visits by Pappajohn, which were all related to the [breach of contract claim], are evidence of National's contacts with Minnesota . . . . "). Compare Sybaritic, Inc. V. Interport Int'l, Inc., 957 F.2d 522, 525 (8th Cir. 1992) (no personal jurisdiction in Minnesota where defendant had made a two-day visit to Minnesota to inspect plaintiff's facilities, but the disputed contract between the parties "was negotiated, drafted, presented, and executed in Japan"); Morris v. Barkbuster, Inc., 923 F.2d 1277, 1282 (8th Cir. 1991) (no personal jurisdiction where plaintiff's claims against the defendant were unrelated to the defendant's forum contacts).

Turning briefly to the "secondary factors" of the analysis, *Dakota Indus.*, 946 F.2d at 1390, the Court finds they also favor the exercise of the Court's jurisdiction. The state of Iowa has an interest is providing a forum for the resolution of disputes involving ILI, a company incorporated under Iowa law and whose principal place of business is in Iowa. Although Iowa might not be the most convenient forum for Wiggerman, an Arizona resident, ILI and ASC both operate in the Midwest. It would be imprudent to bifurcate this trial or to require ILI and ASC to litigate the matter in Arizona. Because

Iowa is no less convenient for all the parties than any other forum, this factor slightly weighs in favor of finding personal jurisdiction.

In sum, the record shows that Wiggerman "purposefully avail[ed] [himself] of the privilege of conducting activities within" Iowa. *Hanson v. Denckla*, 357 U.S. 235, 253 (1958). His contacts were not "random, fortuitous, or isolated," and he could reasonably expect to be "haled into court" in Iowa. *World-Wide Volkswagen Corp.*, 444 U.S. at 297. Wiggerman had a continuous business relationship with ILI, and the maintenance of this suit in Iowa does not offend "traditional notions of fair play and substantial justice." *International Shoe*, 326 U.S. at 316.

### III. CONCLUSION

For the foregoing reasons, Wiggerman's motion to dismiss based on lack of personal jurisdiction is denied.

IT IS SO ORDERED.

This 23<sup>rd</sup> day of December.

United States District Court